Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2012-060

Cycles Lambert Inc.

v.

President of the Canada Border Services Agency

Decision and reasons issued
Thursday, November 28, 2013

Canada

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IN THE MATTER OF an appeal heard on August 1, 2013, pursuant to subsection 67(1) of the *Customs Act*, R.S.C., 1985, c. 1 (2nd Supp.);

AND IN THE MATTER OF 116 decisions of the President of the Canada Border Services Agency, dated October 19, 22 and 24, 2012, with respect to requests for further re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

CYCLES LAMBERT INC. **Appellant**

AND

THE PRESIDENT OF THE CANADA BORDER SERVICES AGENCY **Respondent**

DECISION

The appeal is dismissed.

Daniel Petit
Daniel Petit
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	August 1, 2013
Tribunal Member:	Daniel Petit, Presiding Member
Counsel for the Tribunal:	Elizabeth Giroux Georges Bujold
Manager, Registrar Programs and Services:	Michel Parent
Registrar Officer:	Ekaterina Pavlova

PARTICIPANTS:

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Cycles Lambert Inc.	Marco Ouellet

Respondent	**Counsel/Representative**
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STATEMENT OF REASONS

BACKGROUND

1. This is an appeal filed by Cycles Lambert Inc. (Cycles Lambert) with the Canadian International Trade Tribunal (the Tribunal), pursuant to subsection 67(1) of the *Customs Act*,[1] from 116 decisions made by the President of the Canada Border Services Agency (CBSA), pursuant to subsection 60(4), with respect to requests for further re-determination of tariff classification.

2. The issue in this appeal is whether assembled bicycle rims, spokes and hubs, with no tubes or tires (the goods in issue), are properly classified under tariff item No. 8714.99.10 of the schedule to the *Customs Tariff*[2] as bicycle wheels, as determined by the CBSA, or should be classified under tariff item No. 8714.92.00 as wheel rims and spokes, as claimed by Cycles Lambert.

PROCEDURAL HISTORY

3. Cycles Lambert imported the goods in issue between 2007 and 2011 under 116 distinct transactions. At the time of their importation, the goods in issue were classified under tariff item No. 8714.99.10 as bicycle wheels. Customs duties were paid accordingly.

4. In April and July 2012, Cycles Lambert applied for a refund of duties pursuant to paragraph 74(1)(*e*) of the *Act* in respect of each of the transactions, on the grounds that the duties were paid due to an error in the tariff classification of the goods in issue. In this regard, Cycles Lambert requested that the tariff classification of the goods in issue be modified and claimed they should be classified under tariff item No. 8714.92.00 as wheel rims and spokes.

5. The CBSA denied Cycles Lambert's requests. In accordance with subsection 74(4), these denials were treated as re-determinations pursuant to paragraph 59(1)(*a*). Cycles Lambert then filed requests for further re-determination pursuant to subsection 60(1).

6. On October 19, 22, and 24, 2012, the CBSA issued its decisions, pursuant to subsection 60(4) of the *Act*, concerning the 116 import transactions, in which it maintained the classification of the goods in issue under tariff item No. 8714.99.10. The CBSA thus determined that there had not been an error in the determination of the tariff classification of the goods in issue and that Cycles Lambert was not entitled to a refund of duties paid at the time of their importation.

7. On January 14, 2013, Cycles Lambert filed a notice of appeal with the Tribunal, pursuant to subsection 67(1) of the *Act*, regarding the 116 decisions issued by the CBSA and requested that the appeal be heard by way of written submissions. On January 17, 2013, Cycles Lambert filed with the Tribunal a complete copy of all the decisions covered by this appeal.

8. On March 21, 2013, the CBSA indicated that it agreed with Cycles Lambert's request that the appeal be heard by way of written submissions. On May 13, 2013, the Tribunal informed the parties of its decision to hear the appeal by way of written submissions, without the presence of the parties, in accordance with sections 25 and 25.1 of the *Canadian International Trade Tribunal Rules*.[3]

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].
2. S.C. 1997, c. 36.
3. S.O.R./91-499.

9. The Tribunal held a hearing by way of written submissions in Ottawa, Ontario, on August 1, 2013.

GOODS IN ISSUE

10. The parties agree that the goods in issue are assembled finished goods, composed of three main components: a bicycle wheel rim, bicycle wheel spokes and a bicycle wheel hub. The parties also agree that the goods in issue were imported without tires or tubes.[4]

11. No sample of the goods in issue was filed as an exhibit. However, Cycles Lambert's brief contains several pages of its catalogue, showing photographs of several models and makes of assemblies corresponding or similar to the goods in issue. These goods are presented as different categories of bicycle wheels ("mountain bike 26" disc wheels", "mountain bike 26" wheels", "29ER/700C disc wheels", "road wheels" "trail wheels", "hybrid 700C wheels" [translation], etc.).[5] Moreover, the CBSA's brief provides an example (taken from Cycles Lambert's website) of three bicycle wheels which, in the CBSA's view, are similar to the goods in issue.[6] According to this evidence, the goods in issue also include a hub.

12. According to Cycles Lambert, the goods in issue do not have valves or nipples and are almost identical to the goods in issue in *Outdoor Gear Canada v. President of the Canada Border Services Agency*.[7] On the basis of the evidence, the Tribunal finds that the goods in issue are finished and assembled goods, which include a bicycle wheel rim, spokes, spoke nuts and a hub. Moreover, the Tribunal notes that, in the product literature for the Canadian market filed by the parties, the goods in issue or similar goods are designated as wheels.

LEGAL FRAMEWORK

13. The tariff nomenclature is set out in detail in the schedule to the *Customs Tariff*, which is designed to conform to the Harmonized Commodity Description and Coding System (the Harmonized System) developed by the World Customs Organization (WCO).[8] The schedule is divided into sections and chapters, with each chapter containing a list of goods categorized in a number of headings and subheadings and under tariff items.

14. Subsection 10(1) of the *Customs Tariff* provides that the classification of imported goods shall, unless otherwise provided, be determined in accordance with the *General Rules for the Interpretation of the Harmonized System*[9] and the *Canadian Rules*[10] set out in the schedule.

15. The *General Rules* comprise six rules. Classification begins with Rule 1, which provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the other rules.

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4. Tribunal Exhibit AP-2012-060-06A at paras. 10, 35; Tribunal Exhibit AP-2012-060-10A at paras. 5, 6, 20.
5. Tribunal Exhibit AP-2012-060-06A at para. 12 and Tab 3.
6. Tribunal Exhibit AP-2012-060-10A at para. 4 and Tab 1.
7. (21 November 2011), AP-2010-060 (CITT) [*Outdoor Gear*]. In that case, the goods in issue were described by the Tribunal as assembled bicycle rims, spokes and hubs, with no tubes, valves, nipples or tires.
8. Canada is a signatory to the *International Convention on the Harmonized Commodity Description and Coding System*, which governs the Harmonized System.
9. S.C. 1997, c. 36, schedule [*General Rules*].
10. S.C. 1997, c. 36, schedule.

16. Section 11 of the *Customs Tariff* provides that, in interpreting the headings and subheadings, regard shall be had to the *Compendium of Classification Opinions to the Harmonized Commodity Description and Coding System*[11] and the *Explanatory Notes to the Harmonized Commodity Description and Coding System*,[12] published by the WCO. While the classification opinions and the explanatory notes are not binding, the Tribunal will apply them unless there is a sound reason to do otherwise.[13]

17. The Tribunal must therefore first determine whether the goods in issue can be classified at the heading level according to Rule 1 of the *General Rules* as per the terms of the headings and any relative section or chapter notes in the *Customs Tariff*, having regard to any relevant classification opinions and explanatory notes. If the goods in issue cannot be classified at the heading level through the application of Rule 1, then the Tribunal must consider the other rules.[14]

18. Once the Tribunal has used this approach to determine the heading in which the goods in issue should be classified, the next step is to use a similar approach to determine the proper subheading.[15] The final step is to determine the proper tariff item.[16]

19. In this case, the dispute between the parties arises at the subheading level.

RELEVANT CLASSIFICATION PROVISIONS

20. The relevant provisions of the *Customs Tariff* that were applicable at the time of importation of the goods in issue between 2007 and 2011 provide as follows:

Section XVII

VEHICLES, AIRCRAFT, VESSELS AND ASSOCIATED TRANSPORT EQUIPMENT

. . .

Chapter 87

VEHICLES OTHER THAN RAILWAY OR TRAMWAY ROLLING-STOCK, AND PARTS AND ACCESSORIES THEREOF

. . .

11. World Customs Organization, 2d ed., Brussels, 2003.
12. World Customs Organization, 5th ed., Brussels, 2012.
13. See *Canada (Attorney General) v. Suzuki Canada Inc.*, 2004 FCA 131 (CanLII) at paras. 13, 17, where the Federal Court of Appeal interpreted section 11 of the *Customs Tariff* as requiring that the explanatory notes be respected unless there is a sound reason to do otherwise. The Tribunal is of the view that this interpretation is equally applicable to the classification opinions.
14. Rules 1 through 5 of the *General Rules* apply to classification at the heading level.
15. Rule 6 of the *General Rules* provides that ". . . the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules [i.e. Rules 1 through 5] . . ." and that ". . . the relative Section and Chapter Notes also apply, unless the context otherwise requires."
16. Rule 1 of the *Canadian Rules* provides that ". . . the classification of goods in the tariff items of a subheading or of a heading shall be determined according to the terms of those tariff items and any related Supplementary Notes and, *mutatis mutandis*, to the [*General Rules*] . . ." and that ". . . the relative Section, Chapter and Subheading Notes also apply, unless the context otherwise requires." The classification opinions and the explanatory notes do not apply to classification at the tariff item level.

87.14	**Parts and accessories of vehicles of headings 87.11 to 87.13.**
	-Of motorcycles (including mopeds):
8714.11.00	**- -Saddles**
8714.19.00	**- -Other**
8714.20.00	**-Of carriages for disabled persons**
	-Other:
8714.91	**- -Frames and forks, and parts thereof**
. . .	
8714.92.00	**- -Wheel rims and spokes**
8714.93.00	**- -Hubs, other than coaster braking hubs and hub brakes, and free-wheel sprocket-wheels**
8714.94.00	**- -Brakes, including coaster braking hubs, and hub brakes, and parts thereof**
8714.95.00	**- -Saddles**
8714.96.00	**- -Pedals and crank-gear, and parts thereof**
8714.99	**- -Other**
8714.99.10	- - -Bicycle wheels
8714.99.90	- - -Others

21. The relevant explanatory notes to heading No. 87.14 read as follows:

> **87.14 - Parts and accessories of vehicles of headings 87.11 to 87.13.**
>
> . . .
>
> This heading covers parts and accessories of a kind used with motorcycles (including mopeds), cycles fitted with an auxiliary motor, side-cars, non-motorised cycles, or carriages for disabled persons, **provided** the parts and accessories fulfil **both** the following conditions:
>
> (i) They must be identifiable as being suitable for use solely or principally with the above-mentioned vehicles.
>
> (ii) They must not be excluded by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).
>
> Parts and accessories of this heading include:
>
> . . .
>
> (4) Wheels and parts thereof (hubs, rims, spokes, etc.).
>
> . . .

ANALYSIS

22. The parties agree, and the Tribunal accepts, that the goods in issue are properly classified in heading No. 87.14, which covers "parts and accessories of vehicles of headings 87.11 to 87.13." Indeed, heading No. 87.14 includes parts and accessories of bicycles, which are classified in heading No. 87.12 as vehicles. Moreover, there is no doubt that the goods in issue are parts or accessories of bicycles, because they are specifically designed to be integrated into a bicycle frame.

23. Thus, the goods in issue are identifiable as being suitable for use solely or mainly with bicycles. Since they are not excluded from classification in heading No. 87.14 pursuant to the notes to Section XVII,[17] the goods in issue meet the two conditions set out in the relevant explanatory notes to be classified in heading No. 87.14.

24. Regarding the classification at the subheading level in heading No. 87.14, the parties agree that the goods in issue should be classified in the first-level subheading "other". The Tribunal agrees with the parties on this point. Indeed, the goods in issue are clearly not parts and accessories of motorcycles (covered by subheadings No. 8714.11 and 8714.19) or parts and accessories of wheelchairs or other carriages for disabled persons (covered by subheading No. 8714.20). As parts and accessories of bicycles, a vehicle other than the two types of vehicles specifically referred to in heading No. 87.14, the goods in issue should therefore be classified in one of the subheadings covering parts and accessories of "other" vehicles (i.e. subheadings No. 8714.91 to 8714.99).

25. Concerning classification at the subheading level, Rule 6 of the *General Rules* reads as follows:

> For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, *mutatis mutandis*, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purpose of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

26. Cycles Lambert submitted that the goods in issue should be classified in subheading No. 8714.92 as "wheel rims and spokes", by application, *mutatis mutandis* (in accordance with Rule 6), of Rule 1 of the *General Rules*.[18]

27. The CBSA submitted that the goods in issue are properly classified in residual subheading No. 8714.99 as "other" parts and accessories of vehicles (namely, parts and accessories other than the six types of goods specifically listed in subheadings No. 8714.91 to 8714.96) by application, *mutatis mutandis* (in accordance with Rule 6), of Rule 1 of the *General Rules*. According to the CBSA, none of the subheadings of heading No. 87.14 specifically describes the assembled bicycle wheel rims, spokes, nuts and hubs, which are the subject of this appeal, such that the goods in issue should be classified in subheading No. 8714.99.

28. Pursuant to Rule 6 of the *General Rules*, the Tribunal must examine the terms of the subheadings of the same level (i.e. subheadings No. 8714.91 to 8714.99) to determine which one covers the goods in issue.[19] As it has done in previous cases,[20] the Tribunal will first determine if the goods in issue are

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17. Note 2 of Section XVII provides that certain goods are not considered parts or accessories of vehicles, even if they are identifiable as intended for use with transportation equipment, and requires their classification in other chapters of the schedule to the *Customs Tariff*. However, this list of goods excluded from Chapter 87, and thus from heading No. 87.14, does not include any goods similar to the goods in issue.
18. Cycles Lambert had initially submitted, in its brief, that Rules 1, 2(a) and 2(b) of the *General Rules* did not apply in this instance, and that it was Rule 3(a) that ought to be applied to classify the goods in issue in the appropriate subheading of heading No. 87.14. In its response to the CBSA's brief, however, Cycles Lambert *completely changed* its principal argument regarding the relevant general rules and agreed with the CBSA that Rule 1 of the *General Rules* applied, and not Rule 3(a), to determine the tariff classification of the goods in issue at the subheading level. Therefore, it is unnecessary to examine Cycles Lambert's arguments concerning the application of Rule 3(a) to dispose of this appeal.
19. There are no subheading, section or chapter notes applicable in this instance.

classifiable in subheading No. 8714.92, as claimed by Cycles Lambert. If it concludes that the goods in issue are not covered by this subheading, considering that no other subheading in which specific parts and accessories of heading No. 87.14 are listed appears relevant,[21] the Tribunal will then determine whether they are properly classified in residual subheading No. 8714.99, as determined by the CBSA.

29. This approach is logical, because if the goods in issue were to be classified in subheading No. 8714.92 as wheel rims and spokes, there would be no reason to consider residual subheading No. 8714.99 "other". Consequently, the goods in issue cannot, as a matter of law, be found to be *prima facie* classifiable in both subheading No. 8714.92 and residual subheading No. 8714.99.[22]

Are the Goods in Issue Classifiable Under Subheading No. 8714.92?

30. Cycles Lambert admitted that, in Canada, the goods in issue are described as bicycle wheels. In this regard, Cycles Lambert agreed with the evidence presented in *Outdoor Gear* concerning goods very similar to the goods in issue, and with the Tribunal's conclusion in that case, whereby the assembled bicycle rims, spokes and hubs, with no tubes or tires, like the goods in issue, are recognizable as bicycle wheels and known in the trade as bicycle wheels.[23]

31. Cycles Lambert submitted that the goods in issue should nonetheless be classified in subheading No. 8714.92 as rims, because, in Europe, goods similar to the goods in issue are known as *jantes*, which is the French word for rims. According to Cycles Lambert, to determine the meaning and scope of the term "*jante*" used in the French version of tariff item No. 8714.92.00, it is essential to refer to the intentions of the WCO, because this organization is responsible for the descriptions appearing in the headings and subheadings of the schedule to the *Customs Tariff*. Therefore, and also because the WCO is an organization based in Brussels, Belgium, Cycles Lambert argued that the term "*jante*" must be interpreted in the context of the European market and not of the Canadian market.

32. In support of this argument, Cycles Lambert filed with the Tribunal excerpts from European websites in which the term "*jante*" appears to be likened to a wheel or to make reference, not to a part of a wheel, but to the wheel itself. Cycles Lambert also filed several advertisements from European websites in which goods that appear similar to the goods in issue are described as *jantes*.[24] In Cycles Lambert's view, this evidence indicates that, in Europe, goods similar to the goods in issue are known as *jantes* and are marketed as such. According to Cycles Lambert, it follows that the term "*jante*" used in the French version of subheading No. 8714.92 perfectly describes the goods in issue, since it is the term used by the WCO, which is a European organization.

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20. See, for example, *Canadian Tire Corporation Ltd. v. President of the Canada Border Services Agency* (23 November 2011), AP-2010-069 (CITT) at para. 39; *Spectra/Premium Industries Inc. v. President of the Canada Border Services Agency* (26 March 2008), AP-2006-053 (CITT) at para. 39.
21. In this regard, the Tribunal points out that it is not alleged that the goods in issue must be classified in a specific subheading of heading No. 87.14 other than subheading No. 8714.92. As such, if the goods in issue cannot be classified in subheading n^{o} 8714.92, they must be classified in residual subheading No. 8714.99 by application, *mutatis mutandis* (in accordance with Rule 6), of Rule 1 of the *General Rules*.
22. In *Partylite Gifts Ltd. v. The Commissioner of the Canada Border Services Agency* (16 February 2004), AP-2003-008 (CITT), the Tribunal ruled that a residual tariff provision would be used only if there were no other appropriate provision to classify the goods.
23. Tribunal Exhibit AP-2012-060-12B at para. 15; *Outdoor Gear* at para. 45.
24. Tribunal Exhibit AP-2012-060-12A, Tabs 1 to 9.

33. In short, Cycles Lambert submitted that the Tribunal should set aside the fact (*admitted by Cycles Lambert*) that, in Canada, the goods in issue are known as bicycle wheels and not as *jantes*. To support its argument that the Tribunal should interpret the term "*jante*" as encompassing the goods in issue, based on the evidence concerning the meaning of this term in Europe, Cycles Lambert also invoked Rule 2 of the *Canadian Rules*, which provides that "[w]here both a Canadian term and an international term are presented in [the] Nomenclature, the commonly accepted meaning and scope of the international term shall take precedence."

34. The CBSA submitted that, because they were imported assembled,[25] the components of the goods in issue have lost their individual character and form one and the same object, a bicycle wheel. In other words, the CBSA submitted that Cycles Lambert imported finished goods, namely, bicycle wheels, and not components, such as rims and spokes. According to the CBSA, the term "*jante*" only describes a component of a wheel. Moreover, the CBSA did not submit observations in response to Cycles Lambert's arguments concerning Rule 2 of the *Canadian Rules* with regard to the allegation that the term "*jante*" does not have the same meaning in Europe and in Canada, despite the opportunity it was offered by the Tribunal.

35. The Tribunal notes that the dispute between the parties is based on their divergent interpretation of the term "*jante*" used in the French version of subheading No. 8714.92. Essentially, Cycles Lambert submitted that this term must be interpreted as having the same meaning as the term "wheel", such that it encompasses the goods in issue, because, even if they are known as bicycle wheels in Canada, they are described as *jantes* for bicycles in Europe.

36. A term used in the *Customs Tariff* must be interpreted according to the modern contextual method of interpretation, whereby "... the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."[26]

37. According to this method, caution must be exercised before setting aside the ordinary meaning of the words in the interpretation of a provision. It is only when the words used may have more than one reasonable meaning that their ordinary sense plays a less important role in the interpretation exercise.[27] Moreover, it is the intention of Parliament that must be sought, and not the intention of the WCO, as Cycles Lambert submitted.

38. Indeed, the interpretation of the words of a Canadian Act does not depend on the intentions of an international organization regarding the meaning of these words. Section 11 of the *Customs Tariff* simply provides that, in interpreting the headings and subheadings, the Tribunal shall take into account the classification opinions and explanatory notes published by the WCO. This does not mean the Tribunal must consider the WCO's intentions in its interpretation exercise. Indeed, the classification opinions and the explanatory notes are not binding and, if a valid ground exists not to apply them, the Tribunal may disregard them. Therefore, the WCO's intentions regarding the meaning of a word used in the *Customs Tariff* are not determinative.

25. In this regard, the Tribunal notes that Cycles Lambert also admitted that the goods in issue are imported assembled.
26. *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27 at para. 21.
27. *BalanceCo v. President of the Canada Border Services Agency* (3 May 2013), AP-2012-036 (CITT) at paras. 36-39.

39. In accordance with the modern rule of interpretation of statutes, the Tribunal must first give a meaning to the term "*jante*" following its ordinary and grammatical sense. In this regard, the term "*jante*" is defined as follows in *Le Grand Robert de la langue française*: "a circle of wood or metal that forms the periphery of a wheel, a steering wheel" [translation].[28] According to this definition, the term "*jante*" thus refers to a part of a wheel and not to the wheel itself.

40. The explanatory notes to heading No. 87.14 are in accordance with this definition. Indeed, among the list of parts and accessories of vehicles cited as examples of goods covered by heading No. 87.14 are "wheels and parts thereof (hubs, rims, spokes, etc.)." Therefore, the explanatory notes establish a distinction between the wheel as such and its parts, including the rim or *jante*. Consequently, in accordance with the ordinary and common sense of the term, a rim is likened to a part of a wheel in the explanatory notes.

41. Since the explanatory notes clearly establish that a wheel and a rim are two distinct goods, there is no basis to Cycles Lambert's allegation that the WCO's intention is to refer to the wheel itself by the use of the term "*jante*" and thus to include bicycle wheels in subheading No. 8714.92. On the contrary, the explanatory notes confirm that *jantes* are not wheels, but rather parts of a wheel, in the view of the WCO.

42. As for the advertisements taken from European websites and filed by Cycles Lambert, in which goods that appear similar to the goods in issue are described as *jantes*, or likening motorcycle rims or other goods to wheels, the Tribunal points out that this evidence does not concern the goods in issue, but other goods that do not necessarily have the same components as the goods in issue. Indeed, these advertisements do not give a detailed or precise description of the goods to which they refer to or establish that they are assembled finished goods, composed of three main components: a bicycle wheel rim, bicycle wheel spokes and a bicycle wheel hub, identical or similar to the goods in issue. It is therefore impossible to conclude, on the basis of that evidence, that the goods in issue would be known as *jantes* and not as wheels in Europe.

43. In any case, this evidence does not convince the Tribunal that, in Europe, wheels are generally known as *jantes*. Indeed, Cycles Lambert did not file definitions taken from general or specialized dictionaries in the transportation field indicating that, in European countries, the term "*jante*" describes an entire wheel and not a part of a wheel. The evidence on which Cycles Lambert's argument is based comes from commercial websites, which are not authorities concerning the meaning of the term "*jante*" in Europe. In any case, the definition of the term "*jante*", cited above, is taken from a dictionary published in Europe. Therefore, the Tribunal cannot find that, in Europe, the term "*jante*" has a meaning that is different from its ordinary and common meaning (i.e. a circle that forms the periphery of a wheel, and not a wheel as such).

44. Indeed, although some foreign merchants may use the term "*jante*" to describe goods that appear to be bicycle wheels, this does not imply that the term "*jante*" used in the French version of subheading No. 8714.92 of the schedule to the *Customs Tariff* should be interpreted as meaning a wheel. This evidence is simply irrelevant to the interpretation of a term that appears in a Canadian statute.

45. Moreover, an examination of the context in which the terms "rim" or "*jante*" appear in the schedule to the *Customs Tariff* confirms that, for tariff classification purposes, a rim and a bicycle wheel are two distinct goods. The tariff nomenclature includes a specific tariff item for bicycle wheels, tariff item No. 8714.99.10, which is found in subheading No. 8714.99, which covers parts and accessories of vehicles other than, in particular, rims and spokes. As such, to interpret the term "*jante*" as including or meaning

28. Second ed., *s.v.* "jante".

a bicycle wheel, as Cycles Lambert submitted, would render tariff item No. 8714.99.10 redundant and inutile. Indeed, in view of the fact that "bicycle wheels" are specifically mentioned as goods "other" than rims and spokes of subheading No. 8714.92, goods cannot be both rims and bicycle wheels.

46. If such were the case, this would mean that finished and assembled goods, like the goods in issue, which are bicycle wheels, as Cycles Lambert admitted, should be classified elsewhere than in the tariff item that specifically describes them. Moreover, if subheading No. 8714.92, which covers rims, also included bicycle wheels, one may wonder why Parliament would have provided for a specific tariff item for bicycle wheels. Cycles Lambert's interpretation thus leads to an absurd result and therefore cannot be accepted by the Tribunal.

47. Nor can the Tribunal accept Cycles Lambert's argument that Rule 2 of the *Canadian Rules* means that the term "*jante*" must be interpreted as covering the goods in issue. Indeed, Cycles Lambert has not established that the term "*jante*" is an "international term", the first condition of application of this rule. Moreover, on the grounds mentioned above, it was not demonstrated either to the Tribunal that the term "*jante*" has a broader scope or sense in Europe than in Canada.

48. In sum, in order to give each word used in heading No. 87.14 its useful effect and after interpreting the term "*jante*" used in the French version of subheading No. 8714.92 according to its ordinary meaning, and considering the context in which it appears, the Tribunal therefore concludes that this term means a part or a component of a wheel. Consequently, the Tribunal is of the view that the goods in issue are not classifiable in subheading No. 8714.92, since they do not constitute a part or a component of a wheel, but are rather bicycle wheels.

49. In this regard, it is clear that the goods in issue include more components than a rim. In fact, they are rims assembled with other components and have the essential characteristics of bicycle wheels. Like the goods in issue in *Outdoor Gear*, the evidence indicates that they have the essential character of bicycle wheels and the appearance of bicycle wheels. They are also known as bicycle wheels in the trade and are marketed as bicycle wheels in Canada.

50. Therefore, the Tribunal finds that the terms of subheading No. 8714.92 ("wheel rims and spokes") do not describe the goods in issue, which are thus not classifiable in subheading No. 8714.92.

Are the Goods in Issue Classifiable in Subheading No. 8714.99?

51. As mentioned above, no other subheading listing specific parts and accessories of vehicles of heading No. 87.14 describes the goods in issue. Therefore, by application, *mutatis mutandis* (in accordance with Rule 6), of Rule 1 of the *General Rules*, the goods in issue are properly classified in residual subheading No. 8714.99, which covers parts and accessories of vehicles "other" than those specifically referred to in subheadings No. 8714.91 to 8714.96.

Classification at the Tariff Item Level

52. Subheading No. 8714.99 includes two tariff items, namely, tariff item No. 8714.99.10, which covers "bicycle wheels", and tariff item No. 8714.99.90, which covers all other parts and accessories of vehicles not specifically covered by the provisions of the foregoing nomenclature. The Tribunal has already indicated that the evidence demonstrates that the goods in issue are bicycle wheels.

53. In accordance with Rule 1 of the *Canadian Rules*, the Tribunal finds that the terms of tariff item No. 8714.99.10 describe the goods in issue.

DECISION

54. For the foregoing reasons, the Tribunal finds that the goods in issue are properly classified in subheading No. 8714.99 and, more specifically, in accordance with Rule 1 of the *Canadian Rules*, under tariff item No. 8714.99.10 as bicycle wheels.

55. Therefore, the appeal is dismissed.

Daniel Petit
Daniel Petit
Presiding Member